

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
Civil Action No. 3:23-CV-00892-RJC-SCR**

**CITY OF GASTONIA, a North Carolina
municipal corporation,**

Plaintiff,

v.

**NC GAS HOUSE GANG LLC, a Wyoming
limited liability company,**

Defendant.

NC GAS HOUSE GANG LLC,

**Defendant and Third-Party
Plaintiff**

v.

**ATLANTIC LEAGUE OF
PROFESSIONAL BASEBALL CLUBS,
INC., and RICHARD E. “RICK” WHITE,**

Third-Party Defendants.

**REPLY BRIEF IN SUPPORT OF
PLAINTIFF CITY OF
GASTONIA’S MOTION FOR
EXPEDITED HEARING AND/OR
DISPOSITION**

Pursuant to LcVR 7.1(e), Plaintiff and Counterclaim Defendant City of Gastonia (“the City”) hereby submits this succinct Reply Brief in Support of its Motion for Expedited Hearing and/or Disposition (Doc. 19).

The City is not “oddly befuddled by NC Gas House Gang’s assertion of its procedural and substantive rights.” (Doc. 24, p. 5.). Rather, the City is merely asking this Court for expedited relief given that Gas House Gang has been afforded those rights while, on one hand, conveying to this Court that this matter is “complex litigation” (Doc. 13, p. 2) and then at the same time implying

to the Bankruptcy Court-- while Gas House Gang's response to the City's Motion for Judgment on the Pleadings was still pending-- that the City is responsible for there not being a final judgment entered in this case. All this is also in the context that Gas House Gang *admitted* to the defaults in the Bankruptcy Action's very first hearing, as well-documented by the City in this action.

Moreover, as acknowledged in the Motion itself, undersigned counsel understands the unusual nature of this request. The conduct of Gas House Gang, however, has been one of obstruction and delay that moves beyond exercising one's due process rights. For example, Gas House Gang has-- six weeks after filing-- *still* not returned summonses as to the Third-Party Defendants.

As explained in the City's various filings in this matter, on December 21, 2023, the Bankruptcy Court relieved the City from the automatic stay provided to debtors like Gas House Gang by the U.S. Bankruptcy Code with respect to the Agreements at bar "to pursue its state law rights and remedies." (See *e.g.*, Doc. 8, p. 3). Since that time, Gas House Gang has, despite admitting to the presence of defaults in the Bankruptcy Action, filed meritless counterclaims, a separate Third Party Complaint a week later asserting the same factual allegations, and then sought multiple extensions of time to respond to City pleadings and motions, which were filed to promptly resolve this case, including Gas House Gang's meritless pleadings.

Finally, the Bankruptcy Court has set for hearing Gas House Gang's Motion to Assume Leases or Executory Contracts Exclusive Use Area Lease Agreement and a Use and Operating Agreement Filed by NC Gas House Gang LLC and the City's objection thereto. (A true and accurate copy of the Notice is attached hereto as [Exhibit A](#).) That hearing is set for April 22, 2024 in Greenbelt, Maryland.

Accordingly, the City respectfully requests that the Court GRANT its Motion for Expedited Hearing and/or Disposition (Doc. 19).

Respectfully submitted, this the 28th day of March, 2024.

/s/ Daniel E. Peterson

Daniel E. Peterson
N.C. State Bar No. 41251
PARKER POE ADAMS & BERNSTEIN LLP
Bank of America Tower
620 S. Tryon St., Suite 800
Charlotte, NC 28202
T: (704) 372.9000
F: (704) 334.4706
Email: daniel.peterson@parkerpoe.com

L. Ashley Smith, City Attorney
P.O. Box 1748
Gastonia, North Carolina 28053-1748
Email: Ash.smith@gastonianc.gov

*Attorneys for Plaintiff and Counterclaim Defendant
City of Gastonia*

CERTIFICATE OF SERVICE

I hereby certify that, on this date, the foregoing **REPLY BRIEF IN SUPPORT OF PLAINTIFF CITY OF GASTONIA'S MOTION FOR EXPEDITED HEARING AND/OR DISPOSITION** was electronically filed with the Clerk of Court using the CM/ECF system, and served upon counsel of record via the Court's CM/ECF system.

This the 28th day of March, 2024.

/s/ Daniel E. Peterson

Daniel E. Peterson
N.C. State Bar No. 41251
PARKER POE ADAMS & BERNSTEIN LLP
Bank of America Tower
620 S. Tryon St., Suite 800
Charlotte, NC 28202
T: (704) 372.9000
F: (704) 334.4706
Email: daniel.peterson@parkerpoe.com

L. Ashley Smith, City Attorney
P.O. Box 1748
Gastonia, North Carolina 28053-1748
Email: Ash.smith@gastonianc.gov

*Attorneys for Plaintiff and Counterclaim Defendant
City of Gastonia*